

REMARKS

The Office Action of June 11, 2007, has been received and reviewed. Claims 1, 3, 6, 7, and 10 are currently pending in the application. Claims 1, 6, 7, and 10 stand rejected. Claims 2, 4, 5, 8, 9, and 11-16 are cancelled herein. Claims 1, 3, and 10 have added amended herein. Claims 3, 6, 7, and 10 were previously withdrawn from consideration. New claim 17 is presented herein. Support for new claim 17 may be found throughout the Specification and more specifically at least at ¶¶ [0022], [00121], and [00122]. All amendments and claim cancellations are made without prejudice or disclaimer. No new matter has been presented. Reconsideration is respectfully requested.

Drawings

The drawings were objected to as the drawing depicted amino acid sequences which are not identified by SEQ ID NOs. Applicants note that appropriate correction has been made to the Brief Description of the Figures.

Specification

The Specification was objected to as lacking required sequence identifiers and improperly demarcating trademarks. Applicants submit that appropriate correction has been made.

Claim Objections

Claims 1, 6, 7, and 10 stand objected to. Applicants respectfully submit that claim 1, as amended, is not drawn in the alternative to a non-elected species. Applicants note that in Response to the Restriction Requirement and Species Election instituted by the Office, applicants elected Group I and species (a). Group I was defined by the Examiner as being directed to a peptide. Office Action mailed January 17, 2007, at page 3. Species (a) was defined by the Examiner as “a peptide comprising at least part of the amino acid sequence of SEQ ID NO: 1, wherein the original amino acid at position 2 thereof is substituted by valine.” *Id.*, at page 8. Applicants respectfully submit that amended claim 1 falls within the election and selection made by applicants as claim 1 is directed to peptides and claim recites valine at position 2. In addition, as claims 6, 7, and 10 depend from claim 1, these claims fall within the groupings elected.

Written Description

Claims 1, 6, 7, and 10 stand rejected as assertedly failing to comply with the Written Description Requirement of 35 U.S.C. § 112, first paragraph. Applicants respectfully traverse the rejections as hereinafter set forth.

While applicants do not agree that any of the claims lack written description, to expedite prosecution, claim 1 has been amended herein. Specifically, claim 1 has been amended to recite “[a] peptide consisting of: the amino acid sequence of SEQ ID NO:1 wherein the amino acid at position 2 thereof is valine.” Emphasis added. Specific written description for amended claim 1 can be found at SEQ ID NO: 34 and in original claim 1. Consequently, applicants respectfully submit that amended claim 1 complies with the written description requirement. As such, applicants respectfully request the withdrawal of the rejection of claim 1 under 35 U.S.C. § 112, first paragraph, and reconsideration of same.

In addition, applicants respectfully submit that claims 6, 7, and 10 comply with the written description requirement, *inter alia*, as these claims depend from claim 1. Consequently, applicants respectfully request the withdrawal of the rejections of claims 6, 7, and 10 under 35 U.S.C. § 112, first paragraph, and reconsideration of same.

Rejections under 35 U.S.C. § 102(b)

Claims 1, 6, 7, and 10 stand rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by Adema *et al.* (U.S. Pat. 6,500,919) (hereinafter “Adema”). Applicants respectfully traverse the rejections as hereinafter set forth.

Applicants note that “a claim is only anticipated if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987). Applicants respectfully assert that claims 1, 6, 7, and 10 cannot be anticipated by Adema as Adema does not teach each and every element of the claims.

The Examiner, at page 15 of the Office Action mailed June 11, 2007, asserts that Adema teaches the sequence Trp-Gly-Gln-Tyr-Trp-Gln-Val. Applicants note that amended claim 1 recites SEQ ID NO:1, which itself recites the sequence “Lys-Thr-Trp-Gly-Gln-Tyr-Trp-Ala-Val”

(emphasis added). Applicants submit that the Ala at the second to last position of SEQ ID NO: 1 is not taught by Adema. Consequently, Adema cannot anticipate a peptide consisting of SEQ ID NO:1 as recited by amended claim 1. As such, applicants respectfully request the withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b) and reconsideration of same.

In addition, applicants respectfully submit that claims 6, 7, and 10 are not anticipated by Adema, *inter alia*, as these claims depend from claim 1. Consequently, applicants respectfully request the withdrawal of the rejections of claims 6, 7, and 10 under 35 U.S.C. § 102(b) and reconsideration of same.

Double Patenting Rejections

Claims 1, 6, and 7 stand provisionally rejected as obvious in view of U.S. Pat. 6,500,919 and U.S. App. 10/136,145. Applicants have amended the claims herein and request reconsideration.

CONCLUSION

In light of the above amendments and remarks, applicants respectfully request reconsideration of the application. If questions remain after consideration of the foregoing, or if the Office should determine that there are additional issues which might be resolved by a telephone conference, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dan Morath', with a stylized, flowing script.

Daniel J. Morath, Ph.D.

Registration No. 55,896

Attorney for Applicants

TRASKBRITT, P.C.

P.O. Box 2550

Salt Lake City, Utah 84110-2550

Telephone: 801-532-1922

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